

# In the Court of Appeals of the State of Alaska

**Bonnie Lea Degenstein,**  
Appellant,

v.

**State of Alaska,**  
Appellee.

Court of Appeals No. **A-12750**

## **Order**

Affirming Clerk's Decision to Enter  
Judgment for Costs of Appointed  
Attorney

Date of Order: **October 1, 2019**

Trial Court Case No. **3AN-13-12932CR**

The Appellant, Bonnie L. Degenstein, filed a sentence appeal in this Court. In *Degenstein v. State*, Alaska App. Summary Disposition No. 0056 (July 31, 2019), this Court affirmed Degenstein's sentence.

Under Alaska Appellate Rule 209(b)(5), at the conclusion of any appellate case in which a criminal defendant is represented by court-appointed counsel, the Clerk of the Appellate Courts is directed to "enter judgment against the defendant for the cost of appointed appellate counsel unless the defendant's conviction was reversed by the appellate court." Because Degenstein was represented by court-appointed counsel in this appeal and her conviction was not reversed, the Appellate Court Clerk's Office intends to enter judgment against her in the amount of \$500 for the cost of counsel. *See* Alaska Appellate Rule 209(b)(6).

Degenstein now seeks judicial review of the Clerk's decision. *See* Alaska Appellate Rule 503(h)(2)(A). In her opposition to the entry of judgment for the cost of appellate counsel, Degenstein describes a number of deficiencies in her representation. Specifically, she states that her appellate attorney has only communicated with her twice in the past three years and that Degenstein tried to contact her attorney and her attorney's supervisor for over a year with no response. She also states that her attorney has not sent

her any paperwork related to the appeal and for that reason she only discovered that this Court affirmed her sentence when she received the clerk's notice of intent to enter a judgement for the cost of counsel. Finally, she states that her attorney has not informed her of her options moving forward.

With respect to this last claim, we note that Appellate Rule 302 permits an appellant to file a petition for hearing asking the Alaska Supreme Court to reverse a decision from this Court. A petition for hearing is ordinarily due within 30 days of the date of the decision, but a court may allow a petition for hearing to be filed up to 90 days after the decision was issued. *See* Appellate Rules 303(a)(1) & 521. We encourage Degenstein and her attorney to discuss whether to file a petition for hearing in this matter.

As for Degenstein's other contentions, they are essentially claims that her appellate attorney provided ineffective assistance of counsel. But a claim that her appellate attorney was ineffective is insufficient to relieve Degenstein from the scope of Appellate Rule 209(b). To the extent that Degenstein believes that her appellate attorney was incompetent, she may seek relief by filing and litigating an application for post-conviction relief in the superior court.

In sum, because Degenstein was represented by court-appointed counsel in this appeal and her conviction was not reversed, the decision of the Appellate Court Clerk to enter a \$500 judgment for the cost of counsel under Appellate Rule 209(b) is **AFFIRMED**.

Entered at the direction of Chief Judge Allard.

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October 1, 2019

Clerk of the Appellate Courts

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Ryan Montgomery-Sythe, Chief Deputy  
Clerk

Distribution:

Mail:  
Fleming Burnell, Mary, Public Defender  
Gist, Jason